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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,050	03/29/2001	George R. Borden IV	KLR 7146.073	8987
55648	7590	12/14/2006	EXAMINER NGUYEN, LUONG TRUNG	
KEVIN L. RUSSELL CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP 1600 ODSTOWER 601 SW SECOND AVENUE PORTLAND, OR 97204			ART UNIT 2622	PAPER NUMBER
DATE MAILED: 12/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/823,050	BORDEN, GEORGE R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LUONG T. NGUYEN	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 18 September 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 33-44 and 46-52 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 33-44,46-52 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 33-44, 46-52 filed on 9/18/2006 have been considered but are moot in view of the new ground(s) of rejection.

In re page 6, Applicant argues that the Examiner is misreading each of dependent claims 35 and 46 which each recite the limitation of "said browsing portion permits said user to adjust the size of said range by a number of days equal to or greater than a week." The term "size of said range" refers to the number of days simultaneously displayed on a screen. Each of claims 35 and 46 require a user to be able adjust the size of the range by at least seven days, which could never be done with Suzuki's photobrowser.

In response, it is noted that the features upon which applicant relies (i.e., "*size of said range*" refers to the number of days simultaneously displayed on a screen. Each of claims 35 and 46 require *a user to be able adjust the size of the range by at least seven days*) are not recited in the rejected claim(s). Instead, regarding claim 35, the Applicant recited limitation "said browsing portion permits said user to adjust the size of said range by a number of days equal to or greater than a week." The Examiner considers that Suzuki et al. does disclose this limitation. Note that the claim recited the alternative limitation "or" in the limitation "adjust the size of said range by a number of days equal to or greater than a week." Therefore, the cited reference can read on limitation "adjust the size of said range by a number of days equal to a week" or limitation "adjust the size of said range by a number of days greater than a week." In this case, Suzuki et al. (the cited reference) discloses that a user can select any month of the year 1999, this

indicates that the user can adjust the size of the range, figure 28, which read on limitation “adjust the size of said range by a number of days greater than a week”.

***Claim Objections***

2. Claims 33-42 are objected to because of the following informalities:

Claim 33 (line 10), “a user” should be changed to --the user--.

Claims 34-42 are objected as being dependent on claim 33.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 33-38, 40-44, 46-48, 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 6,590,585) in view of Phillips et al. (US 6,186,553).

Regarding claim 33, Suzuki et al. discloses calendar-based photo file browsing system (screen displayed by the AV content management and search program shown in figure 28, column 22, lines 1-28) for browsing a plurality of files including at least one of a digital image or a digital video, each said digital file having an associated date, said system having an interface displayed on a display, said interface comprising:

(a) a calendar portion (calendar display window 261, figure 28, column 22, lines 1-28) having a range of displayed dates (calendar display window 261 shows a range of displayed in March, figure 28), each respective said date containing an indicator (thumbnail image shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28) indicating the existence of one or more files associated with said respective said date;

(b) a browsing portion enabling a user to selectively increment said range a month (Suzuki et al. discloses that a user can select a month of the year 1999 by click on button “previous month” or “next month”, figure 28).

Suzuki et al. fails to specifically disclose a browsing portion enabling the user to selectively increment said range by a portion of a month. However, Phillips et al. teaches a calendar software, in which the selected date range allowed by the calendar creation software could be virtually any size (e.g., 2-100 days) and could span month or year boundaries as desire (column 8, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. by the teaching of Phillips et al. in order to allow a user selects any desired range.

Regarding claims 34, 48, Suzuki et al. discloses where said browsing portion permits a user to selectively increment said range by a selected one of a day, a month, and a year (a user can select month of the year 1999 by click on button “previous month” or “next month”, figure 28).

Regarding claims 35, 46, Suzuki et al. discloses where said browsing portion permits a user to adjust the size of said range by a number of days equal to or greater than a week (Note that the claims recited the alternative limitation “or” in the limitation “adjust the size of said range by a number of days equal to or greater than a week.” Therefore, the cited reference can read on limitation “adjust the size of said range by a number of days equal to a week” or limitation “adjust the size of said range by a number of days greater than a week.” In this case, Suzuki et al. discloses that a user can select any month of the year 1999, this indicates that the user can adjust the size of the range, figure 28, which read on limitation “adjust the size of said range by a number of days greater than a week”.

Regarding claims 36, 47, Suzuki et al. discloses where said browsing portion permits a user to alternate said range between a week and a month (figure 28 shows that the user can browse image displayed in a week, for example, the user can browse image displayed in week of 3/1-3/6/1999 or 3/7-13/1999).

Regarding claim 37, Suzuki et al. discloses where said indicator is a thumbnail image (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 38, 44, Suzuki et al. discloses where said thumbnail image is representative of a plurality of images, each associated with the respective indicator’s date (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 40, 50, Suzuki et al. discloses having plural said indicators (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 41, 51, Suzuki et al. discloses where each of said plural indicators of a respective said date indicates a category of files (column 22, lines 10-20).

Regarding claims 42, 52, Suzuki et al. discloses where each of said plural indicators of a respective date indicates a time associated with said respective date relative to other said indicators associated with said respective date (figure 28, column 22, lines 1-25).

Regarding claim 43, Suzuki et al. discloses calendar-based photo file browsing system (screen displayed by the AV content management and search program shown in figure 28, column 22, lines 1-28) for browsing a plurality of files including at least one of a digital image or a digital video, each said digital file having an associated date, said system having an interface displayed on a display, said interface comprising:

(a) a calendar portion (calendar display window 261, figure 28, column 22, lines 1-28) having a range of displayed dates (calendar display window 261 shows a range of displayed in March, figure 28), each respective said date containing an indicator (thumbnail image shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28) indicating the existence of one or more files associated with said respective said date, said indicator being a thumbnail image of a file associated with said respective said date (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28, column 22, lines 1-28).

(b) a browsing portion enabling a user to selectively increment said range by a month

(Suzuki et al. discloses that a user can select a month of the year 1999 by click on button "previous month" or "next month", figure 28).

Suzuki et al. fails to specifically disclose a browsing portion enabling the user to selectively increment said range by a portion of a month. However, Phillips et al. teaches a calendar software, in which the selected date range allowed by the calendar creation software could be virtually any size (e.g., 2-100 days) and could span month or year boundaries as desire (column 8, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. by the teaching of Phillips et al. in order to allow a user selects any desired range.

5. Claims 39, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 6,590,585) in view of Phillips et al. (US 6,186,553) further in view of Peairs et al. (US 6,085,205).

Regarding claims 39 and 49, Suzuki et al. and Phillips et al. fail to specifically disclose each respective displayed date has an associated displayed second indicator indicating the quantity of files associated with said respective displayed date. However, Peairs et al. teaches a calendar-based user interface, in which a monthly display page 500 shows a number of files for a respective displayed date, such as cell 504 for the date of August 19, 1996 shows 3 documents 506, 508 and 510, figure 5, column 4, lines 30-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. and Phillips by the teaching of Peairs et al. in order to obtain a calendar-based user

interface, which allows a user to recognize the number of files associated with a respective displayed date.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571) 272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LN *LN*  
12/08/06



DAVID OMETZ  
SUPERVISORY PATENT EXAMINER